

**In the
Indiana Supreme Court**

Virginia Garwood,
Respondent (Petitioner below),

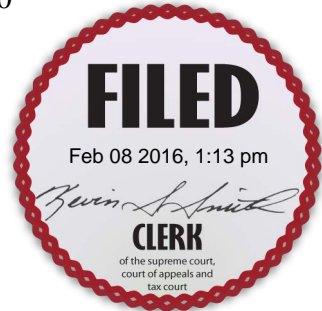
v.

Indiana Department of State Revenue,
Petitioner (Respondent below).

Supreme Court Case No.
82S10-1505-TA-330

Tax Court Case No.
82T10-1208-TA-46

Published Order



Virginia Garwood filed this tax appeal against the Indiana Department of State Revenue ("Department of Revenue"), seeking a tax refund relating to dogs the Department of Revenue seized and sold pursuant to jeopardy tax assessments later declared void. *See Garwood v. Indiana Dep't of State Revenue*, 953 N.E.2d 682 (Ind. Tax Ct. 2011). The Tax Court denied the Department of Revenue's motion for summary judgment and certified its order for interlocutory appeal. *See Garwood v. Indiana Dep't of State Revenue*, 24 N.E.3d 548 (Ind. Tax Ct. 2014). This Court granted the Department of Revenue's motion to accept review of the interlocutory order and set the case for oral argument. During oral argument, the Department of Revenue's counsel argued that Garwood's tax appeal alleges tort claims seeking compensatory damages that should be decided in the civil action Garwood has filed in the Harrison Circuit Court. *See Garwood v. State of Indiana, et al.*, No. 31C01-1105-CT-24. Garwood's counsel agreed that the tort claims arising from the sale of the dogs should be decided in the Harrison Circuit Court case. Counsels' statements bind their clients. *See Koval v. Simon Telelect, Inc.*, 693 N.E.2d 1299 (Ind. 1998). As to whether Garwood is entitled to a tax refund, that matter cannot be resolved until a decision is reached on the amount of taxes, if any, Garwood owes, and that issue remains pending before the Department of Revenue.

Based on the parties' representations, the Court VACATES the Tax Court's published order denying summary judgment reported at *Garwood v. Indiana Dep't of State Revenue*, 24 N.E.3d 548 (Ind. Tax Ct. 2014), and DISMISSES in its entirety the tax appeal, No. 82T10-1208-TA-46, without prejudice to either party later pursuing a tax action relating to any taxes Garwood may owe or any refund she may be due. Garwood's tort claims seeking compensatory damages shall proceed in the Harrison Circuit Court case.

Done at Indianapolis, Indiana, on 2/8/2016.

Loretta H. Rush
Chief Justice of Indiana

All Justices concur.